

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Jerome B. Simandle  
v. : Criminal No. 10-510 (JBS)  
SETH A. FUSCELLARO :

**UNITED STATES' MOTION FOR AN ORDER DISMISSING  
THE INDICTMENT WITHOUT PREJUDICE**

The United States Attorney Paul J. Fishman (Matthew T. Smith, Assistant United States Attorney, appearing) respectfully moves this Court for an Order dismissing the Superseding Indictment against the defendant Seth A. Fuscellaro without prejudice. In support of its motion, the United States represents to the Court the following:

1. After an investigation into a conspiracy to commit mortgage fraud in New Jersey and Florida (and other crimes), the Grand Jury in and for the District of New Jersey returned a Superseding Indictment against Seth A. Fuscellaro and ten others on July 17, 2012. The Grand Jury charged Seth A. Fuscellaro with conspiracy to commit wire fraud, contrary to Title 18, United States Code, Section 1343, in violation of Title 18, United States Code, Section 1349, which was Count One of a three-count Superseding Indictment. Contemporaneous with the return of the indictment, the Court issued an arrest warrant for Fuscellaro based upon the charge against him set forth in the Superseding Indictment.
2. Fuscellaro was arrested on on July 19, 2012 in the District of New Jersey. He made his initial appearance in the District of New Jersey that day and was released on bail.
3. After an extensive additional post-indictment investigation into the allegations against Fuscellaro, the United States has concluded that further prosecution of Fuscellaro is not in the interests of the United States at this time.

Wherefore, for the aforementioned reasons, the United States requests that the Court enter an order dismissing the Superseding Indictment against Seth A. Fuscellaro, Crim. No. 10-510 (JBS), without prejudice. In addition, all counts in the Superseding Indictment against all remaining defendants should remain.

Respectfully submitted,

PAUL J. FISHMAN  
United States Attorney

A handwritten signature in black ink, appearing to read "M. T. Smith", is written over the typed name of Matthew T. Smith.

By: MATTHEW T. SMITH  
Assistant United States Attorney

Dated: September 12, 2013